

REGIONAL ISSUES

Compact of Free Association

Civil Aviation Economic Services and Related Programs

**Amendment to Article IX of the
Federal Programs and Services
Agreement Between the
UNITED STATES OF AMERICA
and PALAU**

Signed at Honolulu September 3, 2010



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“...the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

PALAU

Regional Issues: Compact of Free Association Civil Aviation Economic Services and Related Programs

*Amendment to Article IX of the Federal Programs and
Services Agreement;
Signed at Honolulu September 3, 2010;
Entered into force September 19, 2018.*

Appendix E(4):

**Agreement Between
the Government of the United States of America
and
the Government of the Republic of Palau
to Amend Article IX of the Federal Programs and Services Agreement
Concluded Pursuant to Article II of Title Two and
Section 232 of the Compact of Free Association**

The Government of the United States of America and the Government of the Republic of Palau hereby agree to amend Article IX of the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of The Compact of Free Association (the Compact), signed at Palau on January 10, 1986 (the Compact), to read as follows:

**Article IX
Civil Aviation
Economic Services and Related Programs**

1. The Government of the United States and the Government of Palau agree that the following provisions of this Article shall apply to the economic regulation of air services of the Republic of Palau.
2. The Government of Palau shall exercise independent economic regulatory jurisdiction over air services to, from and within Palau, which for the purposes of this Agreement are points outside the United States, as the term "United States" is defined in 49 U.S.C. 40102(a)(46).
3. In accordance with Section 124 of the Compact, the Government of the United States, if requested and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of Palau.
4. The U.S. Department of Transportation, upon request, shall provide the following assistance to the Government of Palau:
 - (a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;
 - (b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of Palau of applications from any person seeking authority to engage in air services to, from or within the Republic of Palau, respectively; the power of ultimate disposition of such applications rests with the Government of Palau;
 - (c) training in the processing of air service applications, in Washington, D.C., of not more than two persons annually, and a total of not more than six persons for the duration of

this Agreement. The Government of Palau shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and

(d) such other assistance as may from time to time be specifically agreed to by the U.S. Department of Transportation.

5. Subject to approval of the Congress of the United States, the Government of the United States shall establish:

(a) A distinct classification of foreign air carrier, as the term "foreign air carrier" is defined in 49 U.S.C. 40102(a)(21), to be known as "Freely Associated State Air Carrier." This classification shall apply exclusively to a carrier which:

(1) is organized under the laws of Palau; and

(2) has consent to such classification from the Government of Palau, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.

(b) Authority for the U.S. Department of Transportation to authorize Freely Associated States Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.

(c) Notwithstanding the provisions of 49 U.S.C. 40101(a)(15), Air Micronesia, Inc. shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. 4012(a)(2), for so long as it continues to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.

(d) The U.S. Department of Transportation shall adopt rules to implement the provisions of this paragraph as the Department in its discretion, deems appropriate.

6. Notwithstanding paragraph 2, the Government of Palau shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and between the Republic of Palau and to establish tariffs applicable to such air services. The Government of the United States shall promptly notify the Government of Palau, of the filing with the U.S. Department of Transportation of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to this paragraph. The Government of Palau shall designate competent authorities pursuant to Article II, paragraph 10, of this Agreement for the purpose of receiving such notice. The Government of Palau shall be accorded an opportunity to present its views which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government of Palau shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

7. **The Government** of the United States shall sympathetically consider requests by the **Government of Palau** for negotiations of a bilateral air transport agreement between the Government of the United States and the Government of Palau. The Government of Palau and the **United States** shall, on the basis of reciprocity, exempt air carriers that are authorized by either government to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges which exceed an equitable proportion of the **reasonable** costs of providing the facilities, or which are discriminatory.

8. The Government of Palau may terminate the operation of any of three categories of economic services described in the subparagraphs of this Article and set forth below. Such partial termination, which may be effected in the same manner as this Article, may be terminated in accordance with Article XII of this Agreement and may be exercised only for the categories listed below.

- (a) Category 1 -- paragraph 4;
- (b) Category 2 -- subparagraph (b) of paragraph 5; or
- (c) Category 3 -- subparagraphs (a) and (b) of paragraph 5.

If the Government of Palau terminates the operation of the subparagraphs in Category 3, that Government may, in accordance with Article XII of this Agreement, also terminate the operation of paragraph 6 of this Article.

If the Government of Palau elects to terminate both the operation of the subparagraphs in Category 3 and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of United States and the Government of Palau.

This Agreement to amend Article IX of the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association shall enter into force on the date of the last note of an exchange of diplomatic notes by which the Government of the United States of America and the Government of the Republic of Palau inform each other that all internal procedures necessary for its entry into force have been fulfilled. This Agreement may be amended by the Government of the United States of America and the Government of the Republic of Palau at any time by mutual written agreement. This Agreement shall remain in force through September 30, 2024, subject to Article IV, Title Four of the Compact.

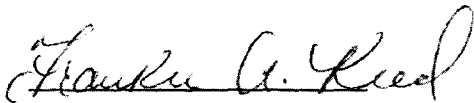
Agreement Between
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and
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to Amend Article IX of the Federal Programs and Services Agreement
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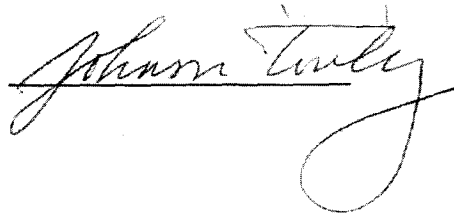
IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments,
have signed this Agreement.

DONE AT Honolulu, USA, in duplicate, this 3rd day of September, 2010, in
the English language.

FOR THE GOVERNMENT
OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT
OF THE REPUBLIC OF PALAU:

Handwritten signature of Frank G. Reed in cursive script.

Handwritten signature of Johnson Tudy in cursive script.